

98TH CONGRESS
1ST SESSION

S. 645

To establish an Intercircuit Tribunal and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 23), 1983

Mr. DOLE (for himself, Mr. HEFLIN, and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish an Intercircuit Tribunal and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Court Improvements Act
4 of 1983".

5 TITLE I—SUPREME COURT REVIEW

6 REVIEW OF DECISIONS INVALIDATING ACTS OF CONGRESS

7 SEC. 101. Section 1252 of title 28, United States Code,
8 and the item relating to that section in the section analysis of
9 chapter 81 of such title, are repealed.

1 REVIEW OF DECISIONS INVALIDATING STATE STATUTES

2 SEC. 102. (a) Section 1254 of title 28, United States
3 Code, is amended by striking out paragraph (2) and redesh-
4 ignating paragraph (3) as paragraph (2).

5 (b) The section heading for section 1254 of such title is
6 amended by striking out "appeal;"

7 (c) The item relating to section 1254 in the section anal-
8 ysis of chapter 81 of title 28, United States Code, is amended
9 by striking out "appeal;"

10 REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY
11 OF STATUTES

12 SEC. 103. Section 1257 of title 28, United States Code,
13 is amended to read as follows:

14 "§ 1257. State courts; certiorari

15 "(a) Final judgments or decrees rendered by the highest
16 court of a State in which a decision could be had, may be
17 reviewed by the Supreme Court by writ of certiorari where
18 the validity of a treaty or statute of the United States is
19 drawn in question or where the validity of a statute of any
20 State is drawn in question on the ground of its being repug-
21 nant to the Constitution, treaties, or laws of the United
22 States, or where any title, right, privilege, or immunity is
23 specially set up or claimed under the Constitution or the trea-
24 ties or statutes of, or any commission held or authority exer-
25 cised under, the United States.

1 “(b) For the purposes of this section, the term ‘highest
2 court of a State’ includes the District of Columbia Court of
3 Appeals.”.

4 REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO
5 RICO

6 SEC. 104. Section 1258 of title 28, United States Code,
7 is amended to read as follows:

8 “§ 1258. Supreme Court of Puerto Rico; certiorari

9 “Final judgments or decrees rendered by the Supreme
10 Court of the Commonwealth of Puerto Rico may be reviewed
11 by the Supreme Court by writ of certiorari where the validity
12 of a treaty or statute of the United States is drawn in ques-
13 tion or where the validity of a statute of the Commonwealth
14 of Puerto Rico is drawn in question on the ground of its being
15 repugnant to the Constitution, treaties, or laws of the United
16 States, or where any title, right, privilege, or immunity is
17 specially set up or claimed under the Constitution or the trea-
18 ties or statutes of, or any commission held or authority exer-
19 cised under, the United States.”.

20 CONFORMING AMENDMENTS

21 SEC. 105. (a) The items relating to sections 1257 and
22 1258 in the section analysis of chapter 81 of title 28, United
23 States Code, are amended to read as follows:

“1257. State courts; certiorari.

“1258. Supreme Court of Puerto Rico; certiorari.”.

1 (b) Section 2101(a) of title 28, United States Code, is
 2 amended by striking out "sections 1252, 1253 and 2282"
 3 and inserting in lieu thereof "section 1253".

4 (c)(1) Section 2104 of title 28, United States Code, is
 5 amended to read as follows:

6 **"§ 2104. Reviews of State court decisions**

7 "A review by the Supreme Court of a judgment or
 8 decree of a State court shall be conducted in the same
 9 manner and under the same regulations, and shall have the
 10 same effect, as if the judgment or decree reviewed had been
 11 rendered in a court of the United States."

12 (2) The item relating to section 2104 in the section
 13 analysis of chapter 133 of title 28, United States Code, is
 14 amended to read as follows:

"2104. Reviews of State court decisions."

15 (d) Section 2350(b) of title 28, United States Code, is
 16 amended by striking out "1254(3)" and inserting in lieu
 17 thereof "1254(2)".

18 **AMENDMENTS TO OTHER LAWS**

19 **SEC. 106.** (a) Section 310 of the Federal Election Cam-
 20 paign Act (2 U.S.C. 437h) is amended by repealing subsec-
 21 tion (b), and redesignating subsection (c) as subsection (b).

22 (b) Section 2 of the Act of May 18, 1928 (25 U.S.C.
 23 652), is amended by striking out " , with the right of either
 24 party to appeal to the United States Court of Appeals for the
 25 Federal Circuit".

1 (c) The last sentence of section 203(d) of the Trans-
2 Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is
3 amended to read as follows: "An interlocutory or final judg-
4 ment, decree, or order of such distinct court may be reviewed
5 only upon petition for a writ of certiorari to the Supreme
6 Court of the United States."

7 (d) Section 209(e)(3) of the Regional Rail Reorganiza-
8 tion Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

9 (1) in the first sentence by striking out " , except
10 that" and all that follows through the end of the sen-
11 tence and inserting in lieu thereof a period; and

12 (2) in the second sentence by striking out "peti-
13 tion or appeal shall be filed" and inserting in lieu
14 thereof "such petition shall be filed in the Supreme
15 Court".

16 (e) Section 303(d) of the Regional Rail Reorganization
17 Act of 1973 (45 U.S.C. 743(d)) is amended to read as
18 follows:

19 "(d) REVIEW.—A finding or determination entered by
20 the special court pursuant to subsection (c) of this section or
21 section 306 of this title shall be reviewable only upon petition
22 for a writ of certiorari to the Supreme Court of the United
23 States. Such review is exclusive and any such petition shall
24 be filed in the Supreme Court not more than 20 days after
25 entry of such finding or determination."

1 (f) Section 1152(b) of the Omnibus Budget Reconcili-
2 ation Act of 1981 (45 U.S.C. 1105(b)) is amended—

3 (1) in the first sentence by striking out “, except
4 that” and all that follows through the end of the sen-
5 tence and inserting in lieu thereof a period; and

6 (2) in the second sentence by striking out “peti-
7 tion or appeal shall be filed” and inserting in lieu
8 thereof “such petition shall be filed in the Supreme
9 Court”.

10 (g) Section 206 of the International Claims Settlement
11 Act of 1949 (22 U.S.C. 1631e) is amended by striking out
12 “1252, 1254, 1291,” and inserting in lieu thereof “1291”.

13 (h) Section 12(a) of the Act of May 13, 1954, commonly
14 known as the Saint Lawrence Seaway Act (33 U.S.C.
15 988(a)), is amended by striking out “1254(3)” and inserting
16 in lieu thereof “1254(2)”.

17 EFFECTIVE DATE

18 SEC. 107. The amendments made by this title shall take
19 effect ninety days after the date of the enactment of this title,
20 except that such amendments shall not apply to cases pend-
21 ing in the Supreme Court on the effective date of such
22 amendments or affect the right to review or the manner of
23 reviewing the judgment or decree of a court which was en-
24 tered before such effective date.

TITLE II—CIVIL PRIORITIES

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 201. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 1657. Priority of civil actions

“(a) Notwithstanding any other provisions of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown.

“(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits.”

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“1657. Priority of civil actions.”

AMENDMENTS TO OTHER LAWS

SEC. 202. The following provisions of law are amended—

1 (1)(A) Section 309(a)(10) of the Federal Election
2 Campaign Act of 1971 (2 U.S.C. 437g(a)(11) is re-
3 pealed.

4 (B) Section 310 of the Federal Election Campaign
5 Act of 1971 (2 U.S.C. 437h), as amended by section
6 106(a) of this Act, is further amended—

7 (i) by striking out “(a)” after “SEC. 310.”;
8 and

9 (ii) by repealing subsection (b), as redesignat-
10 ed by section 106(a) of this Act.

11 (2) Section 6(a) of the Commodity Exchange Act
12 (7 U.S.C. 8(a)) is amended by striking out “The pro-
13 ceedings in such cases in the court of appeals shall be
14 made a preferred cause and shall be expedited in every
15 way.”.

16 (3)(A) Section 6(c)(4) of the Federal Insecticide,
17 Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4))
18 is amended by striking out the second sentence.

19 (B) Section 10(d)(3) of the Federal Insecticide,
20 Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3))
21 is amended by striking out “The court shall give expe-
22 dited consideration to any such action.”.

23 (C) Section 16(b) of the Federal Insecticide, Fun-
24 gicide, and Rodenticide Act (7 U.S.C. 136n(b)) is
25 amended by striking out the last sentence.

1 (D) Section 25(a)(4)(E)(iii) of the Federal Insecti-
2 cide, Fungicide, and Rodenticide Act (7 U.S.C.
3 136w(a)(4)(E)(iii)) is repealed.

4 (4) Section 204(d) of the Packers and Stockyards
5 Act, 1921 (7 U.S.C. 194(d)), is amended by striking
6 out the second sentence.

7 (5) Section 366 of the Agricultural Adjustment
8 Act of 1938 (7 U.S.C. 1366) is amended in the fourth
9 sentence by striking out "At the earliest convenient
10 time, the court, in term time or vacation," and insert-
11 ing in lieu thereof "The court".

12 (6)(A) Section 410 of the Federal Seed Act (7
13 U.S.C. 1600) is amended by striking out "The pro-
14 ceedings in such cases in the court of appeals shall be
15 made a preferred cause and shall be expedited in every
16 way."

17 (B) Section 411 of the Federal Seed Act (7
18 U.S.C. 1601) is amended by striking out "The pro-
19 ceedings in such cases shall be made a preferred cause
20 and shall be expedited in every way."

21 (7) Section 816(c)(4) of the Act of October 7,
22 1975, commonly known as the Department of Defense
23 Appropriation Authorization Act of 1976 (10 U.S.C.
24 2304 note) is amended by striking out the last
25 sentence.

1 (8) Section 5(d)(6)(A) of the Home Owners' Loan
2 Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by
3 striking out "Such proceedings shall be given prece-
4 dence over other cases pending in such courts, and
5 shall be in every way expedited."

6 (9)(A) Section 7A(f)(2) of the Clayton Act (15
7 U.S.C. 18a(f)(2)) is amended to read as follows: "(2)
8 certifies to the United States district court for the judi-
9 cial district within which the respondent resides or car-
10 ries on business, or in which the action is brought, that
11 it or he believes that the public interest requires relief
12 pendente lite pursuant to this subsection, then upon the
13 filing of such motion and certification, the chief judge
14 of such district court shall immediately notify the chief
15 judge of the United States court of appeals for the cir-
16 cuit in which such district court is located, who shall
17 designate a United States district judge to whom such
18 action shall be assigned for all purposes."

19 (B) Section 11(e) of the Clayton Act (15 U.S.C.
20 21(e)) is amended by striking out the first sentence.

21 (10) Section 1 of the Act of February 11, 1903,
22 commonly known as the Expediting Act (15 U.S.C.
23 28) is repealed.

(11) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(12) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)(3)) is repealed.

(13) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4)) is amended—

(A) by striking out “(A)” after “(4)”; and

(B) by striking out subparagraph (B).

(14)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687c(a)) is amended by striking out the last sentence.

(15) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(c)(2)) is repealed.

(16) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out “(1)” and by striking out paragraph (2).

1 (17) Section 503(b)(3)(E) of the Motor Vehicle In-
2 formation and Cost Savings Act (15 U.S.C.
3 2003(b)(3)(E)) is amended by striking out clause (ii)
4 and redesignating clauses (iii) and (iv) as clauses (ii)
5 and (iii), respectively.

6 (18) Section 23(d) of the Toxic Substances Con-
7 trol Act (15 U.S.C. 2622(d)) is amended by striking
8 out the last sentence.

9 (19) Section 12(e)(3) of the Coastal Zone Manage-
10 ment Improvement Act of 1980 (16 U.S.C.
11 1463a(e)(3)) is repealed.

12 (20) Section 11 of the Act of September 28, 1976
13 (16 U.S.C. 1910), is amended by striking out the last
14 sentence.

15 (21)(A) Section 807(b) of the Alaska National In-
16 terest Lands Conservation Act (16 U.S.C. 3117(b)) is
17 repealed.

18 (B) Section 1108 of the Alaska National Interest
19 Lands Conservation Act (16 U.S.C. 3168) is amended
20 to read as follows:

21 "INJUNCTIVE RELIEF

22 "SEC. 1108. No court shall have jurisdiction to grant
23 any injunctive relief lasting longer than ninety days against
24 any action pursuant to this title except in conjunction with a

1 final judgment entered in a case involving an action pursuant
2 to this title.”.

3 (22)(A) Section 10(b)(3) of the Central Idaho Wil-
4 derness Act of 1980 (Public Law 96-312; 94 Stat.
5 948) is repealed.

6 (B) Section 10(c) of the Central Idaho Wilderness
7 Act of 1980 is amended to read as follows:

8 “(c) Any review of any decision of the United States
9 District Court for the District of Idaho shall be made by the
10 Ninth Circuit Court of Appeals of the United States.”.

11 (23)(A) Section 1964(b) of title 18, United States
12 Code, is amended by striking out the second sentence.

13 (B) Section 1966 of title 18, United States Code,
14 is amended by striking out the last sentence.

15 (24)(A) Section 408(i)(5) of the Federal Food,
16 Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is
17 amended by striking out the last sentence.

18 (B) Section 409(g)(2) of the Federal Food, Drug,
19 and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by
20 striking out the last sentence.

21 (25) Section 8(f) of the Foreign Agents Registra-
22 tion Act of 1938 (22 U.S.C. 618(f)) is amended by
23 striking out the last sentence.

1 (26) Section 4 of the Act of December 22, 1974
2 (25 U.S.C. 640d-3), is amended by striking out “(a)”
3 and by striking out subsection (b).

4 (27)(A) Section 3310(e) of the Internal Revenue
5 Code of 1954 (26 U.S.C. 3310(e)) is repealed.

6 (B) Section 6110(f)(5) of the Internal Revenue
7 Code of 1954 (26 U.S.C. 6110(f)(5)) is amended by
8 striking out “and the Court of Appeals shall expedite
9 any review of such decision in every way possible”.

10 (C) Section 6363(d)(4) of the Internal Revenue
11 Code of 1954 (26 U.S.C. 6363(d)(4)) is repealed.

12 (D) Section 7609(h)(3) of the Internal Revenue
13 Code of 1954 (26 U.S.C. 7609(h)(3)) is repealed.

14 (E) Section 9010(c) of the Internal Revenue Code
15 of 1954 (26 U.S.C. 9010(c)) is amended by striking
16 out the last sentence.

17 (F) Section 9011(b)(2) of the Internal Revenue
18 Code of 1954 (26 U.S.C. 9011(b)(2)) is amended by
19 striking out the last sentence.

20 (28)(A) Section 596(a)(3) of title 28, United States
21 Code, is amended by striking out the last sentence.

22 (B) Section 636(c)(4) of title 28, United States
23 Code, is amended in the second sentence by striking
24 out “expeditious and”.

1 (C) Section 1296 of title 28, United States Code,
2 and the item relating to that section in the section
3 analysis of chapter 83 of that title, are repealed.

4 (D) Subsection (c) of section 1364 of title 28,
5 United States Code, the section heading of which reads
6 "Senate actions", is repealed.

7 (E) Section 2284(b)(2) of title 28, United States
8 Code, is amended by striking out the last sentence.

9 (F) Section 2349(b) of title 28, United States
10 Code, is amended by striking out the last two
11 sentences.

12 (G) Section 2647 of title 28, United States Code,
13 and the item relating to that section in the section
14 analysis of chapter 169 of that title, are repealed.

15 (29) Section 10 of the Act of March 23, 1932,
16 commonly known as the Norris-LaGuardia Act (29
17 U.S.C. 110), is amended by striking out "with the
18 greatest possible expedition" and all that follows
19 through the end of the sentence and inserting in lieu
20 thereof "expeditiously".

21 (30) Section 10(i) of the National Labor Relations
22 Act (29 U.S.C. 160(i)) is repealed.

23 (31) Section 11(a) of the Occupational Safety and
24 Health Act of 1970 (29 U.S.C. 660(a)) is amended by
25 striking out the last sentence.

1 ERALS" and "GEOLOGICAL SURVEY" in title I of the
2 Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C.
3 6508), is amended in the third paragraph by striking
4 out the last sentence.

5 (41) Section 214(b) of the Emergency Energy
6 Conservation Act of 1979 (42 U.S.C. 8514(b)) is
7 repealed.

8 (42) Section 2 of the Act of February 25, 1885
9 (43 U.S.C. 1062), is amended by striking out "; and
10 any suit brought under the provisions of this section
11 shall have precedence for hearing and trial over other
12 cases on the civil docket of the court, and shall be tried
13 and determined at the earliest practicable day".

14 (43) Section 23(d) of the Outer Continental Shelf
15 Lands Act (43 U.S.C. 1349(d)) is repealed.

16 (44) Section 511(c) of the Public Utilities Regula-
17 tory Policies Act of 1978 (43 U.S.C. 2011(c)) is
18 amended by striking out "Any such proceeding shall be
19 assigned for hearing at the earliest possible date and
20 shall be expedited by such court."

21 (45) Section 203(d) of the Trans-Alaska Pipeline
22 Authorization Act (43 U.S.C. 1652(d)) is amended by
23 striking out the fourth sentence.

24 (46) Section 5(f) of the Railroad Unemployment
25 Insurance Act (45 U.S.C. 355(f)) is amended by strik-

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23 striking out the fourth sentence.

24 (46) Section 5(f) of the Railroad Unemployment
25 Insurance Act (45 U.S.C. 355(f)) is amended by strik-

1 ing out “, and shall be given precedence in the adjudi-
2 cation thereof over all other civil cases not otherwise
3 entitled by law to precedence”.

4 (47) Section 305(d)(2) of the Regional Rail Reor-
5 ganization Act of 1973 (45 U.S.C. 745(d)(2)) is amend-
6 ed—

7 (A) in the first sentence by striking out
8 “Within 180 days after” and inserting in lieu
9 thereof “After”; and

10 (B) in the last sentence by striking out
11 “Within 90 days after” and inserting in lieu
12 thereof “After”.

13 (48) Section 124(b) of the Rock Island Transition
14 and Employee Assistance Act (45 U.S.C. 1018(b)) is
15 amended by striking out “, and shall render a final de-
16 cision no later than 60 days after the date the last
17 such appeal is filed”.

18 (49) Section 402(g) of the Communications Act of
19 1934 (47 U.S.C. 402(g)) is amended—

20 (A) by striking out “At the earliest conven-
21 ient time the” and inserting in lieu thereof “The”;
22 and

23 (B) by striking out “10(e) of the Administra-
24 tive Procedure Act” and inserting in lieu thereof
25 “706 of title 5, United States Code”.

1 (50) Section 13A(a) of the Subversive Activities
 2 Control Act of 1950 (50 U.S.C. 792a note) is amended
 3 in the third sentence by striking out "or any court".

4 (51) Section 12(a) of the Military Selective Serv-
 5 ice Act of 1967 (50 U.S.C. App. 462(a)) is amended
 6 by striking out the last sentence.

7 (52) Section 4(b) of the Act of July 2, 1948 (50
 8 U.S.C. App. 1984(b)), is amended by striking out the
 9 last sentence.

10 EFFECTIVE DATE

11 SEC. 203. The amendments made by this title shall not
 12 apply to cases pending on the date of the enactment of this
 13 title.

14 TITLE III—JUDICIAL SURVIVORS' ANNUITIES

15 SHORT TITLE

16 SEC. 301. This title may be cited as the "Judicial Sur-
 17 vivors' Annuities Reform Act of 1982".

18 ANNUITIES FOR SURVIVORS

19 SEC. 302. (a) Subsections (b) and (d) of section 376 of
 20 title 28, United States Code, are amended by striking out
 21 "4.5 percent" each place it appears and inserting in lieu
 22 thereof "5.0 percent".

23 (b) Subsection (c) of section 376 of title 28, United
 24 States Code, is amended by striking the first sentence and
 25 inserting in lieu thereof the following: "There shall also be

1 deposited to the credit of the 'Judicial Survivors' Annuities
2 Fund', in accordance with such procedures as may be pre-
3 scribed by the Comptroller General of the United States,
4 amounts required to maintain the actuarial balance of the
5 program as such amounts are actuarially determined on an
6 annual basis in accordance with the provisions of subtitle C of
7 part II of title I of the Budget and Accounting Procedures
8 Act of 1950 (Public Law 95-595; 31 U.S.C. 68a).".

9 (c) Subsection (h)(1)(B) of section 376 of title 28, United
10 States Code, is amended by striking out clauses (i) and (ii)
11 and inserting in lieu thereof the following:

12 " (i) 10 percent of the average annual
13 salary amount determined in accordance with
14 the provisions of subsection (l) of this section;
15 or

16 " (ii) 20 percent of such average annual
17 salary amount, divided by the number of
18 children; or".

19 (d) Subsection (h)(1)(C) of section 376 of title 28, United
20 States Code, is amended by striking out clauses (ii) and (iii)
21 and inserting in lieu thereof the following:

22 " (ii) 20 percent of the average annual
23 salary amount determined in accordance with
24 the provisions of subsection (l) of this section;
25 or

1 “(iii) 40 percent of such average annual
2 salary amount, divided by the number of
3 children.”.

4 (e) Subsection (l) of section 376 of title 28, United
5 States Code, is amended—

6 (1) by striking out “1¼ percent” and inserting in
7 lieu thereof “1.5 percent”; and

8 (2) by striking out all after “of this subsection” in
9 paragraph (2) and inserting in lieu thereof the follow-
10 ing: “, except that such annuity shall not exceed an
11 amount equal to 50 percent of such average annual
12 salary, nor be less than an amount equal to 30 percent
13 of such average annual salary, and that any amount
14 determined in accordance with the provisions of this
15 subsection shall be reduced to the extent required by
16 subsection (d) of this section, if applicable.”.

17 (f) Subsection (h)(2) of section 376 of title 28, United
18 States Code, is amended by inserting before the period,
19 “prior to the attainment of sixty years of age”.

20 AVAILABILITY OF BENEFITS

21 SEC. 303. The benefits conferred by this title shall im-
22 mediately become available to any individual becoming eligi-
23 ble for an annuity under section 376 of title 28, United States
24 Code, on or after the date upon which this title becomes ef-
25 fective, except that, although the rights of any judicial official

1 electing to come within the purview of section 376 of title
2 28, United States Code, on or after the date upon which this
3 title becomes effective, shall be determined exclusively under
4 the provisions of that section as amended by this title, nothing
5 in this title shall be interpreted to cancel, abrogate, or
6 diminish any rights to which an individual or his or her survivors
7 may be entitled by virtue of that individual having contributed
8 to the judicial survivors annuity fund before the date
9 upon which this title becomes effective.

10 RIGHT TO REVOKE ELECTION TO PARTICIPATE

11 SEC. 304. At any time within one hundred and eighty
12 days after the date upon which this title becomes effective,
13 any judicial official who has been participating in the judicial
14 survivors annuity program created by the Judicial Survivors'
15 Annuities Reform Act (90 Stat. 2603), shall be entitled to
16 revoke his or her earlier election to participate in that program
17 and thereby completely withdraw from participation in
18 the program as reformed by this title, except that—

19 (a) any such revocation may be effected only by
20 means of a writing filed with the Director of the Administrative
21 Office of the United States Courts,

22 (b) any such writing shall be deemed to have
23 become effective no sooner than the date upon which
24 that writing is received by the Director,

1 (c) upon receipt of such a writing by the Director,
2 any and all rights to survivorship benefits for such judi-
3 cial official's survivors shall terminate, and all amounts
4 credited to such judicial official's individual account, to-
5 gether with interest at 3 percent per annum, com-
6 pounded on December 31 of each year to that date of
7 revocation, shall thereafter be returned to that judicial
8 official in a lump-sum refund payment, and

9 (d) any judicial official who effects such a revoca-
10 tion and who subsequently again becomes eligible and
11 elects to join the judicial survivors annuities program
12 created by this title under the provisions of section 376
13 of title 28, United States Code, as amended by this
14 title, shall be permitted to do so only upon the rede-
15 posit of the full amount of the refund obtained under
16 this section plus interest at 3 percent per annum, com-
17 pounded on December 31 of each year from the date of
18 the revocation until the date upon which that amount
19 is redeposited.

20 Any judicial official who fails to effect a revocation in accord-
21 ance with the right conferred by this section within one hun-
22 dred and eighty days after the date upon which this title be-
23 comes effective shall be deemed to have irrevocably waived
24 the right to that revocation.

1 EFFECTIVE DATE

2 SEC. 305. This title shall become effective on the first
3 day of the third month following the month in which it is
4 enacted.

5 TITLE IV—STATE JUSTICE INSTITUTE

6 SHORT TITLE

7 SEC. 401. This title may be cited as the “State Justice
8 Institute Act of 1982”.

9 DEFINITIONS

10 SEC. 402. As used in this title, the term—

11 (1) “Board” means the Board of Directors of the
12 Institute;

13 (2) “Director” means the Executive Director of
14 the Institute;

15 (3) “Governor” means the Chief Executive Officer
16 of a State;

17 (4) “Institute” means the State Justice Institute;

18 (5) “recipient” means any grantee, contractor, or
19 recipient of financial assistance under this title;

20 (6) “State” means any State of the United States,
21 the District of Columbia, the Commonwealth of Puerto
22 Rico, the Virgin Islands, Guam, American Samoa, the
23 Northern Mariana Islands, the Trust Territory of the
24 Pacific Islands, and any other territory or possession of
25 the United States; and

1 (7) "Supreme Court" means the highest appellate
 2 court within a State unless, for the purposes of this
 3 title, a constitutionally or legislatively established judi-
 4 cial council acts in place of that court.

5 ESTABLISHMENT OF INSTITUTE; DUTIES

6 SEC. 403. (a) There is established a private nonprofit
 7 corporation which shall be known as the State Justice Insti-
 8 tute. The purpose of the Institute shall be to further the de-
 9 velopment and adoption of improved judicial administration in
 10 State courts in the United States. The Institute may be
 11 incorporated in the District of Columbia or in any other
 12 State. To the extent consistent with the provisions of this
 13 title, the Institute shall exercise the powers conferred upon a
 14 nonprofit corporation by the laws of the State in which it is
 15 incorporated.

16 (b) The Institute shall—

17 (1) direct a national program of assistance de-
 18 signed to assure each person ready access to a fair and
 19 effective system of justice by providing funds to—

20 (A) State courts;

21 (B) national organizations which support and
 22 are supported by State courts; and

23 (C) any other nonprofit organization that will
 24 support and achieve the purposes of this title;

1 (2) foster coordination and cooperation with the
2 Federal judiciary in areas of mutual concern;

3 (3) make recommendations to government agen-
4 cies concerning programs and activities relating to the
5 administration of justice in State courts;

6 (4) promote recognition of the importance of the
7 separation of powers doctrine to an independent judi-
8 ary; and

9 (5) encourage education for judges and support
10 personnel of State court systems through national and
11 State organizations, including universities.

12 (c) The Institute shall not duplicate functions adequately
13 performed by existing nonprofit organizations and shall pro-
14 mote, on the part of agencies of State judicial administration,
15 responsibility for the success and effectiveness of State court
16 improvement programs supported by Federal funding.

17 (d) The Institute shall maintain its principal offices in
18 the State in which it is incorporated and shall maintain there-
19 in a designated agent to accept service of process for the
20 Institute. Notice to or service upon the agent shall be deemed
21 notice to or service upon the Institute.

22 (e) The Institute, and any program assisted by the Insti-
23 tute, shall be eligible to be treated as an organization de-
24 scribed in section 170(c)(2)(B) of the Internal Revenue Code
25 of 1954 and as an organization described in section 501(c)(3)

1 of the Internal Revenue Code of 1954 which is exempt from
2 taxation under section 501(a) of such Code. If such treat-
3 ments are conferred in accordance with the provisions of such
4 Code, the Institute, and programs assisted by the Institute,
5 shall be subject to all provisions of such Code relevant to the
6 conduct of organizations exempt from taxation.

7 (f) The Institute shall afford notice and reasonable op-
8 portunity for comment to interested parties prior to issuing
9 rules, regulations, guidelines, and instructions under this
10 title, and it shall publish in the Federal Register, at least
11 thirty days prior to their effective date, all rules, regulations,
12 guidelines, and instructions.

13 **BOARD OF DIRECTORS**

14 **SEC. 404. (a)(1)** The Institute shall be supervised by a
15 Board of Directors, consisting of eleven voting members to be
16 appointed by the President, by and with the advice and con-
17 sent of the Senate. The Board shall have both judicial and
18 nonjudicial members, and shall, to the extent practicable,
19 have a membership representing a variety of backgrounds
20 and reflecting participation and interest in the administration
21 of justice.

22 (2) The Board shall consist of—

23 (A) six judges, to be appointed in the manner pro-
24 vided in paragraph (3);

1 (B) one State court administrator, to be appointed
2 in the manner provided in paragraph (3); and

3 (C) four public members, no more than two of
4 whom shall be of the same political party, to be ap-
5 pointed in the manner provided in paragraph (4).

6 (3) The President shall appoint six judges and one State
7 court administrator from a list of candidates submitted by the
8 Conference of Chief Justices. The Conference of Chief Jus-
9 tices shall submit a list of at least fourteen individuals, in-
10 cluding judges and State court administrators, whom the con-
11 ference considers best qualified to serve on the Board. The
12 President may reject such list and request another list of indi-
13 viduals. Prior to consulting with or submitting a list to the
14 President, the Conference of Chief Justices shall obtain and
15 consider the recommendations of all interested organizations
16 and individuals concerned with the administration of justice
17 and the objectives of this title.

18 (4) In addition to those members appointed under para-
19 graph (3), the President shall appoint four members from the
20 public sector to serve on the Board.

21 (5) The President shall appoint the members under this
22 subsection within sixty days after the date of enactment of
23 this title.

1 (6) The members of the Board of Directors shall be the
2 incorporators of the Institute and shall determine the State in
3 which the Institute is to be incorporated.

4 (b)(1) Except as provided in paragraph (2), the term of
5 each voting member of the Board shall be three years. Each
6 member of the Board shall continue to serve until the succes-
7 sor to such member has been appointed and qualified.

8 (2) Five of the members first appointed by the President
9 shall serve for a term of two years. Any member appointed to
10 serve for an unexpired term arising by virtue of the death,
11 disability, retirement, or resignation of a member shall be
12 appointed only for such unexpired term, but shall be eligible
13 for reappointment.

14 (3) The term of initial members shall commence from
15 the date of the first meeting of the Board, and the term of
16 each member other than an initial member shall commence
17 from the date of termination of the preceding term.

18 (c) No member shall be reappointed to more than two
19 consecutive terms immediately following such member's ini-
20 tial term.

21 (d) Members of the Board shall serve without compensa-
22 tion, but shall be reimbursed for actual and necessary ex-
23 penses incurred in the performance of their official duties.

1 (e) The members of the Board shall not, by reason of
2 such membership, be considered officers or employees of the
3 United States.

4 (f) Each member of the Board shall be entitled to one
5 vote. A simple majority of the membership shall constitute a
6 quorum for the conduct of business. The Board shall act upon
7 the concurrence of a simple majority of the membership pres-
8 ent and voting.

9 (g) The Board shall select from among the voting mem-
10 bers of the Board a chairman, the first of whom shall serve
11 for a term of three years. Thereafter, the Board shall annual-
12 ly elect a chairman from among its voting members.

13 (h) A member of the Board may be removed by a vote of
14 seven members for malfeasance in office, persistent neglect
15 of, or inability to discharge duties, or for any offense involv-
16 ing moral turpitude, but for no other cause.

17 (i) Regular meetings of the Board shall be held quarter-
18 ly. Special meetings shall be held from time to time upon the
19 call of the chairman, acting at his own discretion or pursuant
20 to the petition of any seven members.

21 (j) All meetings of the Board, any executive committee
22 of the Board, and any council established in connection with
23 this title, shall be open and subject to the requirements and
24 provisions of section 552b of title 5, United States Code, re-
25 lating to open meetings.

1 (k) In its direction and supervision of the activities of the
2 Institute, the Board shall—

3 (1) establish such policies and develop such pro-
4 grams for the Institute as will further achievement of
5 its purpose and performance of its functions;

6 (2) establish policy and funding priorities and issue
7 rules, regulations, guidelines, and instructions pursuant
8 to such priorities;

9 (3) appoint and fix the duties of the Executive Di-
10 rector of the Institute, who shall serve at the pleasure
11 of the Board and shall be a nonvoting ex officio
12 member of the Board;

13 (4) present to other Government departments,
14 agencies, and instrumentalities whose programs or ac-
15 tivities relate to the administration of justice in the
16 State judiciaries of the United States, the recommenda-
17 tions of the Institute for the improvement of such pro-
18 grams or activities;

19 (5) consider and recommend to both public and
20 private agencies aspects of the operation of the State
21 courts of the United States considered worthy of spe-
22 cial study; and

23 (6) award grants and enter into cooperative agree-
24 ments or contracts pursuant to section 406(a).

1 OFFICERS AND EMPLOYEES

2 SEC. 405. (a)(1) The Director, subject to general poli-
3 cies established by the Board, shall supervise the activities of
4 persons employed by the Institute and may appoint and
5 remove such employees as he determines necessary to carry
6 out the purposes of the Institute. The Director shall be re-
7 sponsible for the executive and administrative operations of
8 the Institute, and shall perform such duties as are delegated
9 to such Director by the Board and the Institute.

10 (2) No political test or political qualification shall be
11 used in selecting, appointing, promoting, or taking any other
12 personnel action with respect to any officer, agent, or em-
13 ployee of the Institute, or in selecting or monitoring any
14 grantee, contractor, person, or entity receiving financial as-
15 sistance under this title.

16 (b) Officers and employees of the Institute shall be com-
17 pensated at rates determined by the Board, but not in excess
18 of the rate of level V of the Executive Schedule specified in
19 section 5316 of title 5, United States Code.

20 (c)(1) Except as otherwise specifically provided in this
21 title, the Institute shall not be considered a department,
22 agency, or instrumentality of the Federal Government.

23 (2) This title does not limit the authority of the Office of
24 Management and Budget to review and submit comments

1 upon the Institute's annual budget request at the time it is
2 transmitted to the Congress.

3 (d)(1) Except as provided in paragraph (2), officers and
4 employees of the Institute shall not be considered officers or
5 employees of the United States.

6 (2) Officers and employees of the Institute shall be con-
7 sidered officers and employees of the United States solely for
8 the purposes of the following provisions of title 5, United
9 States Code: Subchapter I of chapter 81 (relating to compen-
10 sation for work injuries); chapter 83 (relating to civil service
11 retirement); chapter 87 (relating to life insurance); and chap-
12 ter 89 (relating to health insurance). The Institute shall make
13 contributions under the provisions referred to in this subsec-
14 tion at the same rates applicable to agencies of the Federal
15 Government.

16 (e) The Institute and its officers and employees shall be
17 subject to the provisions of section 552 of title 5, United
18 States Code, relating to freedom of information.

19 GRANTS AND CONTRACTS

20 SEC. 406. (a) The Institute is authorized to award
21 grants and enter into cooperative agreements or contracts, in
22 a manner consistent with subsection (b), in order to—

23 (1) conduct research, demonstrations, or special
24 projects pertaining to the purposes described in this

1 title, and provide technical assistance and training in
2 support of tests, demonstrations, and special projects;
3 (2) serve as a clearinghouse and information
4 center, where not otherwise adequately provided, for
5 the preparation, publication, and dissemination of infor-
6 mation regarding State judicial systems;
7 (3) participate in joint projects with other agen-
8 cies, including the Federal Judicial Center, with re-
9 spect to the purposes of this title;
10 (4) evaluate, when appropriate, the programs and
11 projects carried out under this title to determine their
12 impact upon the quality of criminal, civil, and juvenile
13 justice and the extent to which they have met or failed
14 to meet the purposes and policies of this title;
15 (5) encourage and assist in the furtherance of judi-
16 cial education;
17 (6) encourage, assist, and serve in a consulting ca-
18 pacity to State and local justice system agencies in the
19 development, maintenance, and coordination of crimi-
20 nal, civil, and juvenile justice programs and services;
21 and
22 (7) be responsible for the certification of national
23 programs that are intended to aid and improve State
24 judicial systems.

1 (b) The Institute is empowered to award grants and
2 enter into cooperative agreements or contracts as follows—

3 (1) The Institute shall give priority to grants, co-
4 operative agreements, or contracts with—

5 (A) State and local courts and their agencies,

6 (B) national nonprofit organizations con-
7 trolled by, operating in conjunction with, and
8 serving the judicial branches of State govern-
9 ments; and

10 (C) national nonprofit organizations for the
11 education and training of judges and support per-
12 sonnel of the judicial branch of State govern-
13 ments.

14 (2) The Institute may, if the objective can better
15 be served thereby, award grants or enter into coopera-
16 tive agreements or contracts with—

17 (A) other nonprofit organizations with exper-
18 tise in judicial administration;

19 (B) institutions of higher education;

20 (C) individuals, partnerships, firms, or corpo-
21 rations; and

22 (D) private agencies with expertise in judicial
23 administration.

24 (3) Upon application by an appropriate Federal,
25 State, or local agency or institution and if the arrange-

1 ments to be made by such agency or institution will
2 provide services which could not be provided adequately
3 ly through nongovernmental arrangements, the Institute
4 may award a grant or enter into a cooperative
5 agreement or contract with a unit of Federal, State, or
6 local government other than a court.

7 (4) Each application for funding by a State or
8 local court shall be approved by the State's supreme
9 court, or its designated agency or council, which shall
10 receive, administer, and be accountable for all funds
11 awarded by the Institute to such courts.

12 (c) Funds available pursuant to grants, cooperative
13 agreements, or contracts awarded under this section may be
14 used—

15 (1) to assist State and local court systems in es-
16 tablishing appropriate procedures for the selection and
17 removal of judges and other court personnel and in de-
18 termining appropriate levels of compensation;

19 (2) to support education and training programs for
20 judges and other court personnel, for the performance
21 of their general duties and for specialized functions,
22 and to support national and regional conferences and
23 seminars for the dissemination of information on new
24 developments and innovative techniques;

1 (3) to conduct research on alternative means for
2 using nonjudicial personnel in court decisionmaking ac-
3 tivities, to implement demonstration programs to test
4 innovative approaches, and to conduct evaluations of
5 their effectiveness;

6 (4) to assist State and local courts in meeting re-
7 quirements of Federal law applicable to recipients of
8 Federal funds;

9 (5) to support studies of the appropriateness and
10 efficacy of court organizations and financing structures
11 in particular States, and to enable States to implement
12 plans for improved court organization and finance;

13 (6) to support State court planning and budgeting
14 staffs and to provide technical assistance in resource
15 allocation and service forecasting techniques;

16 (7) to support studies of the adequacy of court
17 management systems in State and local courts and to
18 implement and evaluate innovative responses to prob-
19 lems of record management, data processing, court per-
20 sonnel management, reporting and transcription of
21 court proceedings, and juror utilization and manage-
22 ment;

23 (8) to collect and compile statistical data and
24 other information on the work of the courts and on the

1 work of other agencies which relate to and effect the
2 work of courts;

3 (9) to conduct studies of the causes of trial and
4 appellate court delay in resolving cases, and to estab-
5 lish and evaluate experimental programs for reducing
6 case processing time;

7 (10) to develop and test methods for measuring
8 the performance of judges and courts and to conduct
9 experiments in the use of such measures to improve
10 their functioning;

11 (11) to support studies of court rules and proce-
12 dures, discovery devices, and evidentiary standards, to
13 identify problems with their operation, to devise alter-
14 native approaches to better reconcile the requirements
15 of due process with the needs for swift and certain jus-
16 tice, and to test their utility;

17 (12) to support studies of the outcomes of cases in
18 selected subject matter areas to identify instances in
19 which the substance of justice meted out by the courts
20 diverges from public expectations of fairness, consist-
21 ency, or equity, to propose alternative approaches to
22 the resolving of cases in problem areas, and to test and
23 evaluate those alternatives;

24 (13) to support programs to increase court respon-
25 siveness to the needs of citizens through citizen educa-

1 tion, improvement of court treatment of witnesses, vic-
2 tims, and jurors, and development of procedures for ob-
3 taining and using measures of public satisfaction with
4 court processes to improve court performance;

5 (14) to test and evaluate experimental approaches
6 to providing increased citizen access to justice, includ-
7 ing processes which reduce the cost of litigating
8 common grievances and alternative techniques and
9 mechanisms for resolving disputes between citizens;
10 and

11 (15) to carry out such other programs, consistent
12 with the purposes of this title, as may be deemed ap-
13 propriate by the Institute.

14 (d) The Institute shall incorporate in any grant, cooper-
15 ative agreement, or contract awarded under this section in
16 which a State or local judicial system is the recipient, the
17 requirement that the recipient provide a match, from private
18 or public sources, equal to 25 per centum of the total cost of
19 such grant, cooperative agreement, or contract, except that
20 such requirement may be waived in exceptionally rare cir-
21 cumstances upon the approval of the chief justice of
22 the highest court of the State and a majority of the Board of
23 Directors.

24 (e) The Institute shall monitor and evaluate, or provide
25 for independent evaluations of, programs supported in whole

1 or in part under this title to insure that the provisions of this
2 title, the bylaws of the Institute, and the applicable rules,
3 regulations, and guidelines promulgated pursuant to this title,
4 are carried out.

5 (f) The Institute shall provide for an independent study
6 of the financial and technical assistance programs under this
7 title.

8 LIMITATIONS ON GRANTS AND CONTRACTS

9 SEC. 407. (a) With respect to grants or contracts made
10 under this title, the Institute shall—

11 (1) insure that no funds made available to recipi-
12 ents by the Institute shall be used at any time, directly
13 or indirectly, to influence the issuance, amendment, or
14 revocation of any Executive order or similar promulga-
15 tion by any Federal, State, or local agency, or to un-
16 dertake to influence the passage or defeat of any legis-
17 lation by the Congress of the United States, or by any
18 State or local legislative body, or any State proposal
19 by initiative petition, unless a governmental agency,
20 legislative body, a committee, or a member thereof—

21 (A) requests personnel of the recipients to
22 testify, draft, or review measures or to make rep-
23 resentations to such agency, body, committee, or
24 member; or

1 (B) is considering a measure directly affect-
2 ing the activities under this title of the recipient
3 or the Institute;

4 (2) insure all personnel engaged in grant or con-
5 tract assistance activities supported in whole or part by
6 the Institute refrain, while so engaged, from any parti-
7 san political activity; and

8 (3) insure that every grantee, contractor, person,
9 or entity receiving financial assistance under this title
10 which files with the Institute a timely application for
11 refunding is provided interim funding necessary to
12 maintain its current level of activities until—

13 (A) the application for refunding has been
14 approved and funds pursuant thereto received; or

15 (B) the application for refunding has been fi-
16 nally denied in accordance with section 509 of
17 this title.

18 (b) No funds made available by the Institute under this
19 title, either by grant or contract, may be used to support or
20 conduct training programs for the purpose of advocating par-
21 ticular nonjudicial public policies or encouraging nonjudicial
22 political activities.

23 (c) The authorization to enter into contracts or any
24 other obligation under this title shall be effective only to the

1 extent, and in such amounts, as are provided in appropriation
2 Acts.

3 (d) To insure that funds made available under this title
4 are used to supplement and improve the operation of State
5 courts, rather than to support basic court services, funds shall
6 not be used—

7 (1) to supplant State or local funds currently sup-
8 porting a program or activity; or

9 (2) to construct court facilities or structures,
10 except to remodel existing facilities to demonstrate
11 new architectural or technological techniques, or to
12 provide temporary facilities for new personnel or for
13 personnel involved in a demonstration or experimental
14 program.

15 RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

16 SEC. 408. (a) The Institute shall not—

17 (1) participate in litigation unless the Institute or
18 a recipient of the Institute is a party, and shall not
19 participate on behalf of any client other than itself;

20 (2) interfere with the independent nature of any
21 State judicial system nor allow sums to be used for the
22 funding of regular judicial and administrative activities
23 of any State judicial system other than pursuant to the
24 terms of any grant, cooperative agreement, or contract

1 with the Institute, consistent with the requirements of
2 this title; or

3 (3) undertake to influence the passage or defeat of
4 any legislation by the Congress of the United States or
5 by any State or local legislative body, except that per-
6 sonnel of the Institute may testify or make other ap-
7 propriate communication—

8 (A) when formally requested to do so by a
9 legislative body, committee, or a member thereof;

10 (B) in connection with legislation or appro-
11 priations directly affecting the activities of the In-
12 stitute; or

13 (C) in connection with legislation or appro-
14 priations dealing with improvements in the State
15 judiciary, consistent with the provisions of this
16 title.

17 (b)(1) The Institute shall have no power to issue any
18 shares of stock, or to declare or pay any dividends.

19 (2) No part of the income or assets of the Institute shall
20 inure to the benefit of any director, officer, or employee,
21 except as reasonable compensation for services or reimburse-
22 ment for expenses.

23 (3) Neither the Institute nor any recipient shall contrib-
24 ute or make available Institute funds or program personnel or

1 equipment to any political party or association, or the cam-
 2 paign of any candidate for public or party office.

3 (4) The Institute shall not contribute or make available
 4 Institute funds or program personnel or equipment for use in
 5 advocating or opposing any ballot measure, initiative, or ref-
 6 erendum, except those dealing with improvement of the State
 7 judiciary, consistent with the purposes of this title.

8 (c) Officers and employees of the Institute or of recipi-
 9 ents shall not at any time intentionally identify the Institute
 10 or the recipient with any partisan or nonpartisan political ac-
 11 tivity associated with a political party or association, or the
 12 campaign of any candidate for public or party office.

13 SPECIAL PROCEDURES

14 SEC. 409. The Institute shall prescribe procedures to
 15 insure that—

16 (1) financial assistance under this title shall not be
 17 suspended unless the grantee, contractor, person, or
 18 entity receiving financial assistance under this title has
 19 been given reasonable notice and opportunity to show
 20 cause why such actions should not be taken; and

21 (2) financial assistance under this title shall not be
 22 terminated, an application for refunding shall not be
 23 denied, and a suspension of financial assistance shall
 24 not be continued for longer than thirty days, unless the
 25 grantee, contractor, person, or entity receiving finan-

1 tract or the terms and conditions upon which financial assist-
2 ance was provided.

3 (c) Copies of all reports pertinent to the evaluation, in-
4 spection, or monitoring of any grantee, contractor, person, or
5 entity receiving financial assistance under this title shall be
6 submitted on a timely basis to such grantee, contractor, or
7 person or entity, and shall be maintained in the principal
8 office of the Institute for a period of at least five years after
9 such evaluation, inspection, or monitoring. Such reports shall
10 be available for public inspection during regular business
11 hours, and copies shall be furnished, upon request, to inter-
12 ested parties upon payment of such reasonable fees as the
13 Institute may establish.

14 (d) Non-Federal funds received by the Institute, and
15 funds received for projects funded in part by the Institute or
16 by any recipient from a source other than the Institute, shall
17 be accounted for and reported as receipts and disbursements
18 separate and distinct from Federal funds.

19 AUDITS

20 SEC. 412. (a)(1) The accounts of the Institute shall be
21 audited annually. Such audits shall be conducted in accord-
22 ance with generally accepted auditing standards by independ-
23 ent certified public accountants who are certified by a regula-
24 tory authority of the jurisdiction in which the audit is under-
25 taken.

1 (2) The audits shall be conducted at the place or places
2 where the accounts of the Institute are normally kept. All
3 books, accounts, financial records, reports, files, and other
4 papers or property belonging to or in use by the Institute and
5 necessary to facilitate the audits shall be made available to
6 the person or persons conducting the audits. The full facilities
7 for verifying transactions with the balances and securities
8 held by depositories, fiscal agents, and custodians shall be
9 afforded to any such person.

10 (3) The report of the annual audit shall be filed with the
11 General Accounting Office and shall be available for public
12 inspection during business hours at the principal office of the
13 Institute.

14 (b)(1) In addition to the annual audit, the financial trans-
15 actions of the Institute for any fiscal year during which Fed-
16 eral funds are available to finance any portion of its oper-
17 ations may be audited by the General Accounting Office in
18 accordance with such rules and regulations as may be pre-
19 scribed by the Comptroller General of the United States.

20 (2) Any such audit shall be conducted at the place or
21 places where accounts of the Institute are normally kept. The
22 representatives of the General Accounting Office shall have
23 access to all books, accounts, financial records, reports, files,
24 and other papers or property belonging to or in use by the
25 Institute and necessary to facilitate the audit. The full facili-

1 ties for verifying transactions with the balances and securities
2 held by depositories, fiscal agents, and custodians shall be
3 afforded to such representatives. All such books, accounts,
4 financial records, reports, files, and other papers or property
5 of the Institute shall remain in the possession and custody of
6 the Institute throughout the period beginning on the date
7 such possession or custody commences and ending three
8 years after such date, but the General Accounting Office may
9 require the retention of such books, accounts, financial
10 records, reports, files, and other papers or property for a
11 longer period under section 117(b) of the Accounting and Au-
12 diting Act of 1950 (31 U.S.C. 67(b)).

13 (3) A report of such audit shall be made by the Comp-
14 troller General to the Congress and to the Attorney General,
15 together with such recommendations with respect thereto as
16 the Comptroller General deems advisable.

17 (c)(1) The Institute shall conduct, or require each grant-
18 ee, contractor, person, or entity receiving financial assistance
19 under this title to provide for, an annual fiscal audit. The
20 report of each such audit shall be maintained for a period of
21 at least five years at the principal office of the Institute.

22 (2) The Institute shall submit to the Comptroller Gener-
23 al of the United States copies of such reports, and the Comp-
24 troller General may, in addition, inspect the books, accounts,
25 financial records, files, and other papers or property belong-

1 ing to or in use by such grantee, contractor, person, or entity,
 2 which relate to the disposition or use of funds received from
 3 the Institute. Such audit reports shall be available for public
 4 inspection during regular business hours, at the principal
 5 office of the Institute.

6 AMENDMENTS TO OTHER LAWS

7 SEC. 413. Section 620(b) of title 28, United States
 8 Code, is amended—

9 (1) striking out “and” at the end of paragraph (3);

10 (2) striking out the period at the end of paragraph

11 (4) and inserting in lieu thereof “; and”; and

12 (3) inserting the following new paragraph (5) at
 13 the end thereof:

14 “(5) insofar as may be consistent with the per-
 15 formance of the other functions set forth in this section,
 16 to cooperate with the State Justice Institute in the es-
 17 tablishment and coordination of research and programs
 18 concerning the administration of justice.”.

19 AUTHORIZATIONS

20 SEC. 414. There are authorized to be appropriated to
 21 carry out the purposes of this title, \$20,000,000 for fiscal
 22 year 1984, \$25,000,000 for fiscal year 1985, and
 23 \$25,000,000 for fiscal year 1986.

1

EFFECTIVE DATE

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SEC. 415. The provisions of this title shall take effect
upon the date of enactment of such title.

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TITLE V—FEDERAL COURTS STUDY COMMISSION

5

SHORT TITLE

6

SEC. 501. This title may be cited as the “Federal
Courts Study Act”.

7

8

ESTABLISHMENT AND PURPOSES OF THE COMMISSION

9

SEC. 502. (a) There is hereby established a Federal
Courts Study Commission on the future of the Federal Judi-
ciary (hereafter referred to as the “Commission”).

10

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12

(b) The purposes of the Commission are to—

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14

(1) study the jurisdiction of the courts of the
United States;

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(2) evaluate the procedures, personnel, business
and administration of the courts;

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(3) stimulate the examination of problems current-
ly facing the courts;

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(4) order, receive, and review reports from all dis-
pute resolving bodies, including courts, administrative
agencies, and alternative dispute resolution entities;
and further, collect, and review all private and public
studies concerning the effectiveness of courts of the
United States, the jurisdiction of the courts and their
procedures, personnel, business, and administration;

1 (5) report to the President, the Congress, the Ju-
 2 dicial Conference of the United States, and the State
 3 Justice Institute, on the revisions, if any, in the Con-
 4 stitution and laws of the United States where the
 5 Commission, based on its study and evaluation, deems
 6 advisable; and

7 (6) develop a long-range plan for the future of the
 8 Federal Judiciary, including assessments involving—

9 (A) alternative methods of dispute resolution;

10 (B) the actual structure and administration of
 11 the Federal court system;

12 (C) the manner in which courts handle cases;

13 (D) methods of resolving intracircuit and in-
 14 tercircuit conflicts in the court of appeals; and

15 (E) the types of disputes resolved by the
 16 Federal courts and Federal agencies.

17 MEMBERSHIP OF THE COMMISSION

18 SEC. 503. (a) The Commission shall be composed of
 19 fourteen members appointed, within ninety days after the ef-
 20 fective date of this title, as follows:

21 (1) four members appointed by the President of
 22 the United States with not more than two members
 23 from any major political party;

24 (2) two members of the Senate appointed by the
 25 President pro tempore of the Senate, one of whom

1 shall be appointed upon the recommendation of the ma-
2 jority leader and one of whom shall be appointed upon
3 the recommendation of the minority leader;

4 (3) two members of the House of Representatives
5 appointed by the Speaker of the House of Representa-
6 tives, one of whom shall be appointed upon the recom-
7 mendation of the majority leader and one of whom
8 shall be appointed upon the recommendation of the mi-
9 nority leader;

10 (4) four members appointed by the Chief Justice
11 of the United States with no more than two of such
12 members from any major political party; and

13 (5) two members appointed by the Conference of
14 Chief Justices, with no more than one such member
15 being from any major political party.

16 (b) The membership of the Commission shall be selected
17 in such a manner as to be broadly representative of the var-
18 ious interests, needs, and concerns which may be affected by
19 the jurisdiction of the Federal courts.

20 (c) The term of office of each Commission member shall
21 be five years. Any member who was appointed pursuant to
22 paragraph (2) or (3) of subsection (a) who vacates such office
23 during his term of office with the Commission shall vacate his
24 position on the Commission also. A member appointed to fill
25 any such vacancy shall be appointed only for the remainder

1 of his predecessor's term. Vacancies in the Commission shall
2 not affect its powers and shall be filled in the same manner in
3 which the original appointment was made.

4 (d) The Commission shall select a Chairman and a Vice
5 Chairman from among its members.

6 (e) Eight members of the Commission shall constitute a
7 quorum.

8 **POWERS OF THE COMMISSION**

9 **SEC. 504.** (a) The Commission or, on the authorization
10 of the Commission, any subcommittee thereof may, for the
11 purpose of carrying out its functions and duties, hold such
12 hearings and sit and act at such times and places, administer
13 such oaths, and request the attendance and testimony of such
14 witnesses, and the production of such books, records, corre-
15 spondence, memorandums, papers, and documents as the
16 Commission, or any such subcommittee may deem advisable.

17 (b) The Administrative Office of the United States
18 Courts, and the Federal Judicial Center, and each depart-
19 ment, agency, and instrumentality of the executive branch of
20 the Government, including the National Institute of Justice
21 and independent agencies, shall furnish to the Commission,
22 upon request made by the Chairman or Vice Chairman, such
23 information and assistance as the Commission may reason-
24 ably deem necessary to carry out its functions under this title,

1 consistent with other applicable provisions of law governing
2 the release of such information.

3 (c) Subject to such rules and regulations as may be
4 adopted by the Commission, the Chairman shall have the
5 power to—

6 (1) appoint and fix the compensation of an Execu-
7 tive Director, and such additional staff personnel as he
8 deems necessary, without regard to the provisions of
9 title 5, United States Code, governing appointments in
10 the competitive service, and without regard to the pro-
11 visions of chapter 51 and subchapter III of chapter 53
12 of such title relating to classification and General
13 Schedule pay rates, but at rates not in excess of the
14 maximum rate for GS-18 of the General Schedule
15 under section 5332 of such title, and

16 (2) procure temporary and intermittent services to
17 the same extent as is authorized by section 3109 of
18 title 5, United States Code, but at rates not to exceed
19 \$200 a day for individuals.

20 (d) To the extent or in such amounts as are provided in
21 appropriation Acts, the Commission is authorized to enter
22 into interagency agreements or contracts with the Federal
23 Judicial Center, the National Center for State Courts, Fed-
24 eral or State agencies, private firms, institutions, and individ-
25 uals for the conduct of research or surveys, the preparation of

b1 reports, and other activities necessary to the discharge of its
b2 duties.

b3 (e) The Commission is authorized to receive financial
b4 assistance from sources other than the Federal Government,
b5 including assistance from private foundations.

6 (f) The Commission is authorized, for the purpose of car-
b7 rying out its functions and duties pursuant to this title, to
8 establish advisory panels consisting of members either of the
b9 Commission or of the public. Such panels shall be established
b10 to provide expertise and assistance in specific areas, as the
b11 Commission deems necessary.

b12 FUNCTIONS AND DUTIES

b13 SEC. 505. (a) The Commission shall—

b14 (1) make a complete study of the jurisdiction of
b15 the courts of the United States and of the several
b16 States and report to the President and the Congress on
b17 such study within two years after the effective date of
b18 this title;

b19 (2) recommend revisions to be made to the Con-
b20 stitution and laws of the United States as the Commis-
b21 sion, on the basis of such study, deems advisable;

b22 (3) collect and review studies on the effectiveness
b23 of the courts;

b24 (4) develop a long-range plan for the judicial
b25 system;

1 (5) submit written reports to the President and
2 the Congress on the condition of the judiciary, includ-
3 ing a summary of their findings, recommendations, and
4 conclusions annually, submitting the first such report
5 within one year after the study concluded pursuant to
6 paragraph (1); and

7 (6) make any recommendations and conclusions it
8 deems advisable every year thereafter.

9 (b) The study of the jurisdiction of the courts conducted
10 by the Commission pursuant to paragraph (1) of subsection
11 (a) shall be completed within two years after the effective
12 date of this title and prior to the other functions and duties
13 provided for in this section.

14 COMPENSATION OF MEMBERS

15 SEC. 506. (a) A member of the Commission who is an
16 officer or full-time employee of the United States shall re-
17 ceive no additional compensation for his or her services, but
18 shall be reimbursed for travel, subsistence, and other neces-
19 sary expenses incurred in the performance of duties vested in
20 the Commission, but such amount shall not exceed the maxi-
21 mum amounts authorized under section 456 of title 28,
22 United States Code.

23 (b) A member of the Commission who is from the pri-
24 vate sector shall receive \$200 per diem for each day (includ-
25 ing traveltime) during which he or she is engaged in the

1 actual performance of duties vested in the Commission, plus
2 reimbursement for travel, subsistence, and other necessary
3 expenses incurred in the performance of such duties, but such
4 amounts shall not be in excess of the maximum amounts au-
5 thorized under section 456 of title 28, United States Code.

6 **REPORTS**

7 **SEC. 507. (a)(1)** The Commission shall transmit to the
8 President and to the Congress, not later than two years after
9 the effective date of this title, a study of the jurisdiction of the
10 courts of the United States and of the several States pursuant
11 to section 505(a)(1) of this title. The Commission shall there-
12 after, in keeping with its functions, annually transmit to the
13 President and the Congress a report on the condition of the
14 judiciary and summarize any findings, and make any recom-
15 mendations and conclusions it deems advisable on the basis of
16 its previous activities.

17 (2) Not later than ten years after the effective date of
18 this title the Commission shall submit a final report contain-
19 ing a detailed statement of the findings and conclusions of the
20 study conducted pursuant to this title, together with any rec-
21 ommendations it deems advisable.

22 **EXPIRATION OF THE COMMISSION**

23 **SEC. 508.** The Commission shall cease to exist on the
24 date ninety days after it transmits the final report pursuant to
25 section 507 of this title.

1 **AUTHORIZATION OF APPROPRIATIONS**

2 SEC. 509. To carry out the purposes of this title there
3 are authorized to be appropriated \$700,000 for each of the
4 fiscal years 1984 and 1985, and \$800,000 for each of the
5 eight succeeding fiscal years 1986 through 1993.

6 **EFFECTIVE DATE**

7 SEC. 510. This title shall become effective on the date
8 of enactment of this title.

9 **TITLE VI—INTERCIRCUIT TRIBUNAL**

10 **SHORT TITLE**

11 SEC. 601. This title may be cited as the “Intercircuit
12 Tribunal of the United States Courts of Appeals Act”.

13 **ESTABLISHMENT OF TRIBUNAL**

14 SEC. 602. (a) Part I of title 28, United States Code, is
15 amended by inserting immediately after chapter 3 the follow-
16 ing new chapter:

17 **“CHAPTER 4—INTERCIRCUIT TRIBUNAL OF THE**
18 **UNITED STATES COURTS OF APPEALS**

“Sec.

“61. Establishment and composition of Intercircuit Tribunal; sitting panels.

“62. Establishment and duties of the Chancellor of the United States.

“63. Principal office and terms.

“64. Seal.

“65. Sessions.

19 **“§ 61. Establishment and composition of Intercircuit Tri-**
20 **bunal; sitting panels**

21 “(a)(1) There shall be established an Intercircuit Tribu-
22 nal of the United States Courts of Appeals which shall be

1 **“§ 62. Establishment and duties of the Chancellor of the**
2 **United States**

3 “(a)(1) There shall be a Chancellor of the United States
4 appointed by the Chief Justice from amongst judges on active
5 duty as members of a United States Circuit Court of Appeals.
6 The President shall appoint a replacement for the vacated
7 circuit judgeship.

8 “(2) The Chancellor shall be subject to removal by the
9 Chief Justice.

10 “(3)(A) The Chancellor may return to his former posi-
11 tion as a judge of the United States Circuit Court of Appeals
12 and serve in the same manner as he did prior to becoming
13 Chancellor if he is dismissed, or voluntarily vacates such po-
14 sition.

15 “(B) The time spent as Chancellor shall be treated as
16 years of judicial service for purposes of such judge’s seniority
17 status.

18 “(C) If such Chancellor returns to his former circuit
19 judgeship position, such circuit shall be permitted to have its
20 authorized number of judgeships plus the one additional
21 judgeship resulting from the return of the former Chancellor
22 until such time as one judge leaves the circuit by assuming
23 senior status, by retirement, or death.

24 “(4) The Chancellor shall take the oath or affirmation as
25 provided in section 453 of title 28, United States Code,
26 before performing the duties of his office.

1 “(5) The Chancellor shall be provided with travel ex-
2 penses pursuant to section 456 of title 28, United States
3 Code, to the same extent such expenses are provided each
4 Justice or judge of the United States.

5 “(b) The Chancellor shall serve as a member of the In-
6 tercircuit Tribunal and shall be responsible for the adminis-
7 tration of the court.

8 “(c) The Chancellor shall supervise all administrative
9 matters assigned to him by the Chief Justice and, as request-
10 ed by the Chief Justice, assist with nonjudicial functions of
11 the position of Chief Justice including administrative duties.

12 **“§ 63. Principal office and terms**

13 “The principal office of the Intercircuit Tribunal of the
14 United States Courts of Appeals shall be in the District of
15 Columbia, but the Tribunal may hold court at such times and
16 places within the United States as the Tribunal may fix by
17 rule.

18 **“§ 64. Seal**

19 “The Intercircuit Tribunal of the United States Courts
20 of Appeals shall have a seal which shall be judicially noticed.

21 **“§ 65. Sessions**

22 “The time and place of the sessions of the Intercircuit
23 Tribunal of the United States Courts of Appeals shall be pre-
24 scribed by rule of the court.”.

11 turns thereof to the Director of the Administrative Office of
12 the United States Courts under regulations prescribed by the
13 Director.

4. "§ 732. Marshal and bailiffs

“(a) The Inter-circuit Tribunal of the United States Courts of Appeals may request the services of the marshal of the court of appeals in the judicial district in which the Tribunal is sitting. The marshal shall attend the Tribunal at its sessions, take charge of all property of the United States used by the Tribunal or its employees, and perform such other duties as the Tribunal may direct. The marshal, with the approval of the Tribunal, may request necessary bailiffs from the court of appeals which the marshal serves. Such bailiffs shall attend the Tribunal, preserve order, and perform such other necessary duties as the Tribunal or the marshal may direct.”.

(b) The analysis of part III of title 28, United States Code, is amended by inserting immediately after the item relating to chapter 47 of such title the following new item:

“48. Intercircuit Tribunal of the United States Courts of Appeals... 731”.

20 JURISDICTION AND REVIEW

21 SEC. 604. (a)(1) Chapter 81 of title 28, United States
22 Code, is amended by adding at the end thereof the following
23 new section:

1 **“§ 1259. Referral to Intercircuit Tribunal of the United**
 2 **States Courts of Appeals**

3 “(a) After granting or denying certiorari or noting prob-
 4 able jurisdiction of an appeal in cases before it, or while an
 5 application for review of a case by appeal or by writ of certio-
 6 rari is pending in the Supreme Court, the Supreme Court
 7 may refer to the Intercircuit Tribunal of the United States
 8 Courts of Appeals any such case which is before the Supreme
 9 Court, by the affirmative vote of five of its members. The
 10 Supreme Court shall direct the Intercircuit Tribunal of the
 11 United States Courts of Appeals to decide any case so re-
 12 ferred.

13 “(b) Any judgment of the Intercircuit Tribunal of the
 14 United States Courts of Appeals, in any case referred to the
 15 Tribunal under subsection (a), may be reviewed by the Su-
 16 preme Court by writ of certiorari granted upon the petition of
 17 any party to any such case before or after rendition of judg-
 18 ment or decree by the Tribunal.”.

19 (2) The analysis of chapter 81 of title 28, United States
 20 Code, is amended by adding at the end thereof the following
 21 new item:

“1259. Referral to Intercircuit Tribunal of the United States Courts of Appeals.”.

22 (b)(1) Part IV of title 28, United States Code, is amend-
 23 ed by adding immediately after chapter 81 of such title the
 24 following new chapter:

1 **“CHAPTER 82—INTERCIRCUIT TRIBUNAL OF THE**
 2 **UNITED STATES COURTS OF APPEALS**

3 “Sec.

4 “1271. Jurisdiction.

5 “1272. Finality of decisions.

6 **“§ 1271. Jurisdiction**

7 “The Intercircuit Tribunal of the United States Courts
 8 of Appeals shall have jurisdiction of cases referred to the Tri-
 9 bunal by the Supreme Court.

10 **“§ 1272. Finality of decisions**

11 “(a) The Intercircuit Tribunal of the United States
 12 Courts of Appeals may deny review in any case referred to
 13 the Tribunal by the Supreme Court which is subject to
 14 review by writ of certiorari, unless the Tribunal is directed by
 15 the Supreme Court to decide the case.

16 “(b) Unless modified or overruled by the Supreme
 17 Court, decisions of the Intercircuit Tribunal of the United
 18 States Courts of Appeals other than decisions denying review
 19 under subsection (a) shall be binding on all courts of the
 20 United States and, with respect to questions arising under
 21 the Constitution, laws, or treaties of the United States, on all
 22 other courts.”.

23 (2) The analysis of part IV of title 28, United States
 24 Code, is amended by inserting immediately after the item re-
 25 lating to chapter 81 of such title the following new item:

26 **“82. Intercircuit Tribunal of the United States Courts of Ap-
 27 peals..... 1271”.**

1 TECHNICAL AND CONFORMING AMENDMENTS

2 SEC. 605. (a) Section 1913 of title 28, United States
3 Code, is amended to read as follows:

4 **"§ 1913. Courts of appeals; Intercircuit Tribunal of the**
5 **United States Courts of Appeals**

6 "The fees and costs to be charged and collected in each
7 court of appeals and in the Intercircuit Tribunal of the United
8 States Courts of Appeals shall be prescribed from time to
9 time by the Judicial Conference of the United States. Such
10 fees and costs shall be reasonable and, in the case of the
11 courts of appeals, shall be uniform for all the courts."

12 (b) The item relating to section 1913 of title 28, United
13 States Code, in the analysis of chapter 123 of such title, is
14 amended to read as follows:

"1913. Courts of appeals; Intercircuit Tribunal of the United States Courts of Appeals."

(c) The first paragraph of section 2072 of title 28, United States Code, is amended by inserting after "courts of appeals of the United States" the following: ", and of the Intercircuit Tribunal of the United States Courts of Appeals".

(d) Section 2106 of title 28, United States Code, is amended by inserting immediately after "Supreme Court" the following: ", the Intercircuit Tribunal of the United States Courts of Appeals,".

AUTHORIZATION OF APPROPRIATIONS

2 SEC. 606. There are authorized to be appropriated such
3 sums as may be necessary to carry out the provisions of this
4 title.

5 EFFECTIVE DATE; REPORTS; TERMINATION OF

6 INTERCIRCUIT TRIBUNAL

7 SEC. 607. (a) This title, and the amendments made by
8 this title, shall take effect on October 1, 1983.

9 (b) Section 604(d) of title 28, United States Code, is
10 amended—

11 (1) in paragraph (4) by striking out the period at
12 the end thereof and inserting in lieu thereof “; and”;
13 and

14 (2) by adding at the end thereof the following:

15 “(5) lay before Congress annually statistical tables
16 and other information which will accurately reflect the
17 business which has come before the Intercircuit Tribu-
18 nal of the United States Courts of Appeals.”.

19 (c) The Intercircuit Tribunal of the United States Courts
20 of Appeals, in consultation with the Director of the Adminis-
21 trative Office of the United States Courts, shall submit to the
22 Congress, not later than October 1, 1987, a comprehensive
23 report on its activities from the effective date of this title.

24 (d)(1) The Intercircuit Tribunal of the United States
25 Courts of Appeals shall terminate on September 30, 1988.

- 1 (2) This title, and the amendments made by this title,
- 2 shall cease to be effective on September 30, 1988.

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